



China Legal Update

April 6, 2022

I. Extension of Tax-exemption Policy for Expatriates

According to the notice of State Taxation Bureau of PRC¹, foreign employees working in China can continue to enjoy preferential tax-exemption policies until December 31, 2023, which were originally expected to end from January 1, 2022.

As a result, the policy continues to exempt the following categories of income obtained by expatriates as per the notice of State Taxation Bureau in 2018²:

- Housing allowance, food allowance, relocation fee and laundry fee that are in non-cash form or in the form of actual reimbursement;
- Allowance for business trip at home and abroad obtained with reasonable standards; and
- Reasonable expenses for visiting relatives,

language training, and children's education obtained by foreign individuals.

The extension of the tax exemption certainly lowers the tax bill for expatriates working in China. They can choose between these exemptions and additional itemized deductions. However, in the long run, both employees and employers should consider the changes in the future, examining the possibility of better payroll policies, restructuring the salary package, etc., since after all, the preferential policy will eventually end. Both employees and employers that would be influenced shall keep track on the policy movements.

Therefore, since this policy change might lead to extra tax burden, both employees and employers shall keep track on the policy movements. Employees who will be influenced should examine whether it's possible to discuss and adjust the relevant terms of their labor contracts. It is also recommended for employers to assess and implement relevant changes to their payroll policies to ensure staff stability.

On that basis, for the policy change on tax exemption, the employers can consider restructuring the salary package by making part of the salary the allowances that are still tax-exempt. If possible, employers can also consider relocating their foreign employees to areas where preferential policy on Individual Income Tax are offered to high-end and urgently needed foreign talents (such as the GBA, Hainan FTP, etc). Given the possibly higher personnel costs, the companies should be more cautious when planning the dispatch of foreign personnel to

China.

II. Extension of the Preferential Tax Policy on Annual Bonus

On December 29, 2021, the State Council of China decided to extend the preferential policy treatment of the annual bonus by two years until December 31, 2023. It means that the annual bonus received by employees (both Chinese and foreign) can be taxed separately from other employment remuneration as salaries and other benefits in 2022 and 2023. This preferential policy was originally expected to end in 2021, the extension lightens the burden of taxpayers as taxpayers subject to a high marginal tax rate can now have significant tax savings.

If no further amendment is made, when this preferential policy ends on December 31, 2023, all tax residents who obtain annual one-time bonuses will have to combine their annual bonuses with the yearly comprehensive income for computation and payment of Individual Income Tax, thus resulting in an increase in one's income tax burden. Thus, taxpayers with high proportion of income from annual one-time bonus should pay particular attention to the new policy further policy movements.

III. Civil Procedure Law Amendment introduces trial by single judge and online procedure

On December 24, 2021, the current Civil Procedure Law was amended and will come into force on January 1, 2022³.

The amendment has revised the following aspects:

- With the consent of the parties, civil litigation activities may be conducted online through an information network platform and shall have the same legal effect as offline litigation activities.
- Civil cases in which summary procedure is applied shall be tried by a single judge alone. Civil cases of first instance where the basic facts are clear and the relationship between rights and obligations is clear may be tried by a single judge applying ordinary procedures alone.
- In a civil case of second instance in which the intermediate people's Court has concluded a summary procedure of first instance or filed an appeal against the ruling, if the facts are clear and the rights and obligations are clear, the case may be tried by a single judge alone with the consent of both parties.
- For the following civil cases, the people's court shall not be conducted by one single trial: (1) cases involving the interests of the state or the public; (2) cases involving mass disputes that may affect social stability; (3) cases of widespread concern of the people or other cases of great social impact; (4) cases of a new type or complicated nature; (5) cases that should be tried by a collegial panel as prescribed by law; and (6) other cases not suitable for the sole jurisdiction of a single

judge.

- If, in the course of hearing a case, the people's court finds that it is inappropriate for a single judge to try the case alone, it shall order to transfer the case to a collegial panel for trial. If a party considers that the trial of a case by a single judge alone violates the provisions of the law, it may file an objection to the people's court. The people's court shall examine the objection raised by the party concerned. If the objection is tenable, it shall order to transfer it to a collegial panel for trial. If the objection is not tenable, it shall be rejected.
- With the consent of the person serving the litigation documents, the people's court may serve the litigation documents by electronic means that can confirm the receipt of the documents. If the person on whom the judgment, order or conciliation statement is served electronically requests paper documents, the people's court shall provide them. If the service is made by means of the preceding paragraph, the date on which the information is served reaches the specific system of the person on whom the information is to be served shall be the date of service."
- If the whereabouts of the person on whom the documents are to be served is unknown, or if the documents cannot be served by any other means specified in this section, the documents shall be served by public announcement. Thirty days after the announcement is made, it shall be deemed to have been served."
- A people's court trying a case through summary procedure shall conclude the case within three months from the date of filing the case. If an extension is needed under special circumstances, the extension may be extended

by one month upon approval of the president of the court.

Additionally, many terms regarding the basic-level people's court, small-amount claim, conciliation are revised. And some adjustments has been made on wording to be in line with the Civil Code.

1. Notice on the Continuation of the Implementation of Individual Subsidies for Foreign Nationals and Other Relevant Individual Income Tax Preferential Policies,
http://www.gov.cn/zhengce/zhengceku/2021-12/31/content_5665899.htm

2. Notice on the Preferential Policy Convergence Problem (Cai Shui [2018] No.164 :
<http://www.chinatax.gov.cn/chinatax/n810341/c101340/c101301/c101302/c5002018/content.html>

3. The 32nd meeting of the 13th National People's Congress of PRC adopted the Decision of the Standing Committee of the National People's Congress on amending the Civil Procedure Law of the People's Republic of China :
<http://politics.people.com.cn/n1/2021/1225/c1001-32316685.html>

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